

Supporting Statements for Reporting and Recordkeeping Requirements:

30 CFR 774 – Revisions; Renewals; and Transfer, Assignment, or Sale of Permit Rights

OMB Control Number: 1029-0116

Terms of Clearance: None

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Introduction

The Office of Surface Mining Reclamation and Enforcement (OSM) is submitting this request for information collection approval to collect information under 30 CFR part 774, Revision; Renewal; Transfer, Assignment, or Sale of Permit Rights. The regulations under 30 CFR part 774 address general and specific requirements for permit revisions and renewals; transfer, assignment, or sale of permit rights; permittee post-permit information disclosure; update, maintenance requirements; and procedures for regulatory authorities to pursue permanent permit ineligibility, develop findings of ownership and control, and determine if alternative enforcement actions for parts 843, 846, or 847 are warranted when a person is found to own or control a surface coal mining operation having an unabated or uncorrected violation.

The Office of Management and Budget (OMB) has previously approved continued information collection for 30 CFR part 774. OMB assigned information collection control number 1029-0116 to the approval.

Specific Instructions

A. Justification

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

Following permit issuance, a permittee continues to have information disclosure obligations under the Act and its implementing regulations. Section 774.12 requires industry respondents (permittees) to provide information following the issuance of a permit when certain specified events occur in accordance with §§507 and 510 of Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The information collected from permittees under section 774.12 ensures the continued accuracy and completeness of entity, affiliation, and violation information required under §§ 507 and 510 of the Act after a permit is issued.

The information collection burden associated with section 774.13 is the submission of the information required in an application for a permit revision. The legal authority for section 774.13 is found in §511 of SMCRA.

The information collection burden associated with section 774.15 is the information provided by a permittee in an application for a permit renewal. The legal authority for section 774.15 is found in section 506(d) of SMCRA.

The information collected from persons who apply for a transfer, assignment, or sale of permit rights for section 774.17 is in the form of an application for a transfer, assignment, or sale of permit rights. The legal authority for section 774.17 is found in sections 506(b) and 511(b) of SMCRA.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]*
 - Section 774.12(a) requires permittees to provide updates to information initially disclosed in an application under 30 CFR 778.11 within 30 days of being cited with a cessation order.
 - Section 774.12(c) requires permittees to update the information initially required to be provided in an application for a permit under 30 CFR 778.11 within 60 days of a change in that information, including the date of any departure.
 - Section 774.13(b)(2) requires a permittee applying for, at minimum, a significant permit revision to comply with the information and procedural requirements under sections 773.6, 773.19(b)(1) and (3), and 773.21.
 - Section 774.13(c) requires a regulatory authority to disapprove an application for a permit revision if an applicant does not meet the criteria for approval.
 - Section 774.15(b)(1) through (b)(4) requires a permittee applying for a permit renewal to comply with the specific information and procedural requirements for an application for a permit renewal.
 - Section 774.15(c) requires regulatory authorities to review applications for permit renewals and determine the eligibility of an applicant.
 - Section 774.15(e) requires regulatory authorities to notify OSM, if OSM is not the regulatory authority, and the applicant, each person who filed comments or objections

on the renewal, and to each party to any informal conference held on the permit renewal, of its decision regarding the permit.

- Section 774.17(b)(1) requires an applicant for a transfer, assignment, or sale of permit rights to submit an application for a transfer, assignment, or sale of permit rights.
 - Section 774.17(b)(2) requires an applicant for a transfer, assignment, or sale of permit rights to advertise a filed application in a newspaper of general circulation in the locality of the permitted operation.
 - Section 774.17(d)(1) provides that a regulatory authority may allow a permittee to transfer, assign, or sell permit rights to a successor, if the regulatory authority makes a written finding with respect to an applicant's eligibility for a permit under 30 CFR sections 773.12 and 773.15.
 - Section 774.17(e)(1) requires a regulatory authority to notify OSM, if OSM is not the regulatory authority, the permittee, the successor, and commenters of its permitting decision and findings on the proposed transfer, assignment, or sale of permit rights.
 - Section 774.17(e)(2) requires a successor to provide immediate notice to the regulatory authority with jurisdiction of the consummation of a transfer, assignment, or sale of permit rights.
3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].*

Applicants are required to provide specific information in applications for permit revisions; permit renewals; and transfer, assignment, or sale of permit rights, and update specific information after a permit is issued. This information is maintained in the Applicant/Violator System (AVS). The legal authority under the Act for information collection in 30 CFR part 774 is found at sections 506, 507, 509, 510, and 511.

The majority of the information used in 30 CFR part 774 is required for initial disclosure under 30 CFR part 778. Most of the information collected for 30 CFR part 774 is conducive to electronic media and transmission. Since 1987, OSM and 24 approved State regulatory programs have used AVS, among other things, to assist in determining the eligibility of permittee-applicants for permit revisions, permit renewals, and transfer, assignment or sale of permit rights. AVS contains permitting history as well as entity and compliance information. OSM continues to maintain operation of the AVS and coordinates with and assists States in maintaining accurate and complete data. The industry and general public may also obtain access to AVS to view applicant, permittee, permit history, and violation information.

Many State regulatory authorities have the capability of receiving permit applications electronically, either through an ftp site or via CD-ROM. Some permit applicants use computer technology to create, store, and submit information electronically, but the

percentage varies based on the size of the company and their technical abilities. Larger coal companies have in-house staff or hire engineering firms to prepare their applications. These companies use automated technology to prepare and submit the applications to State regulatory authorities. Small coal companies, which may not have the technical capability or personnel capable of preparing and submitting applications, may still submit paper forms. Once the State regulatory authorities receive paper applications, some will convert the applications to an electronic format for review and processing. The states with the greatest number of permit applications, such as Kentucky and Virginia, receive approximately 90% electronically, while some receive 0%. Nationally, OSM estimates that the State regulatory authorities receive approximately 50% of permit applications electronically.

It must be noted that the vast majority of permit applications are received by States where OSM does not have the authority to require electronic submissions of permit applications. OSM can only recommend using electronic methods to improve efficiency and reduce costs.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

The required information under 30 CFR part 774 is unique to each surface coal mining applicant for permit revision; permit renewal, and transfer, assignment, or sale of permit rights. No other source of the information is available. Industry respondents are companies in the coal mining business who have been issued permits and must then comply with the information disclosure requirements following permit issuance, or with application requirements concerning permit revisions; permit renewals; and transfers, assignments, or sales of permit rights. State respondents are the OSM-approved State programs that implement permitting and enforcement for surface coal mining operations.

5. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

There are no special provisions for small businesses or other small entities under these regulations. OSM believes that approximately 95% of coal mining operations qualify as small businesses under Small Business Administration regulations. OSM does have a small operator assistance program, regulated under 30 CFR 795, which has a separately approved information collection clearance number where OSM and the States provide data and funding to assist small businesses.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

Respondents provide information required for 30 CFR part 774 only at the time of application for a permit renewal; revision; or transfer, assignment or sale of permit rights. Less frequent collection of the information would compromise the accuracy and completeness of information required for nationwide permitting and enforcement purposes and would not be in compliance with the Act.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*
- * *requiring respondents to report information to the agency more often than quarterly;*
 - * *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
 - * *requiring respondents to submit more than an original and two copies of any document;*
 - * *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*
 - * *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
 - * *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
 - * *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
 - * *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

The information collection for 30 CFR part 774 is consistent with 5 CFR 1320(d)(2). Information is collected at the time a permittee applicant applies for a permit revision; permit renewal; or a transfer, assignment, or sale of permit rights and at the time a permittee is cited with a cessation order, or incurs a change in the information required for disclosure when initially applying for a permit. OSM is currently working with State regulatory authorities to accept electronic permit applications, thereby reducing or eliminating paper copies submitted by applicants. Where OSM is the regulatory authority we require no more than one original and two copies of each application.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In April 2010, OSM contacted the following Federal and industry officials concerning the burden imposed by this collection of information.

Federal Regulatory Authority Officials Contacted:

Debbie Feheley
Office of Surface Mining Reclamation and Enforcement
Chief, Applicant Violator System
Lexington KY 40503
859-260-3932

Carl Johnston
Office of Surface Mining Reclamation and Enforcement
Western Region
1999 Broadway, Suite 3320
Denver, Colorado 80202-3050
303-293-5038

Gail Smith
Office of Surface Mining Reclamation and Enforcement
Lexington Field Office
2675 Regency Road
Lexington KY 40503

Coal Mining Industry Official Contacted:

Phil Boggs, Consultant
Mark V Mining and Engineering, Inc.
353 North Cullum Street
Clinton, Tennessee 37716
865.457.1664

The above respondents did not identify any concerns regarding the availability of data, frequency of collection, clarity of instructions and record keeping of the information collection requirements. These individuals did provide the burden estimates identified in item 12 for each section.

On May 20, 2010, OSM published in the Federal Register (75 FR 28277) a notice requesting comments from the public regarding the need for the collection of information, the accuracy of the burden estimate, ways to enhance the information collection, and ways to minimize the burden on respondents. This notice gave the public 60 days in which to comment. However, no comments were received.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

Not applicable. OSM does not provide payments or gifts to respondents.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

No confidential information is solicited or required under the information collection requirements for 30 CFR part 774. If an applicant identifies information for 30 CFR part 774 it wants to remain confidential, regulatory authorities rely upon the regulatory provisions at 30 CFR 773.6(d) to ensure confidentiality of qualified information.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

Not applicable. No sensitive information is solicited or required under the information collection requirements for 30 CFR part 774.

12. *Provide estimates of the hour burden of the collection of information. The statement should:*

** Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*

* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

a. Burden Hour Estimates for Respondents

SECTION	APPLICANT/ PERMITTEE RESPONSES	STATE RESPONSES	APPLICANT BURDEN	STATE BURDEN	TOTAL HOURS	CURRENTLY APPROVED HOURS	CHANGE TO BURDEN
774.12(a)	275	0	4	0	1,100	320	780
774.12(c)	200	0	2	0	400	400	(0)
774.13	2,640	2,580	8	8	41,760	31,256	10,504
774.15	723	690	16	16.5	22,953	23,608	(655)
774.17(b)(1), (b)(2), (e)(2)	900	0	9.25	0	15,805	6,483	9,322
774.17(d)(1), (e)(1)	0	880	0	8.5			
TOTALS	4,738	4,150	39.25	33	82,018	62,067	19,951

b. Estimated Wage Cost to Respondents

OSM has estimated wage costs for respondents: industry and State regulatory employees. OSM has derived these wages from the Bureau of Labor Statistics (BLS) websites at (http://www.bls.gov/oes/current/naics4_212100.htm for industry wages, and http://www.bls.gov/oes/current/naics4_999200.htm#b00-0000 for State employees. Benefits have been calculated using a rate of 1.4 of the salary for industry personnel and 1.5 for State employees per the BLS news release USDL-10-0774, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—MARCH 2010, dated June 9, 2010 (<http://www.bls.gov/news.release/pdf/ecec.pdf>).

Industry Wage Cost

Position	Hour Burden	Total Hours	Cost Per Hour (\$)	Hourly Rate with Benefits (x 1.4) (\$)	Total Wage Burden (\$) (rounded)
Clerical	5.25	5,461	14.24	19.94	108,892
Mining Engineer	29	31,816	35.13	49.18	1,564,711
Operations	5	5,236	50.54	70.76	370,499

Manager					
Total	39.25	42,513			2,044,102

Therefore, the estimated total annual cost for industry respondents for Part 774 is \$2,044,102.

State Wage Cost

Position	Hour Burden	Total Hours	Cost Per Hour (\$)	Hourly Rate with Benefits (x 1.5) (\$)	Total Wage Burden (\$) (rounded)
Physical Scientist	33	39,505	29.59	44.39	1,753,627

Therefore, the estimated total annual cost for State respondents for Part 774 is \$1,753,627.

The total wage cost for all respondents is \$3,797,729.

13. *Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).*

** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*

** If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*

** Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.*

- a. Annual Capital and Start-up Costs

The information collection requirements for part 774 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

Each applicant for a revision, renewal; or transfer, assignment, or sale of permit rights is required to publish a newspaper notice advertising the application and seeking public comment. At \$100 per publication, the cost to all applicants is \$473,800 (4,738 x \$100).

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with part 774 in the absence of indication of problems. OSM estimates that it will conduct an oversight review in one State per year. OSM estimates that the oversight review will require 128 hours.

Based on the U.S. Office of Personnel Management Salary Table 2010-RUS located at http://www.opm.gov/oca/10tables/html/RUS_h.asp, the annual average salary used to estimate the wage cost to the Federal Government is \$43.13 per hour for a GS 13 step 4 technician. Incorporating the benefits multiplier of 1.5 implied by information in Table A of BLS news release USDL-10-0774, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—MARCH 2010, dated June 9, 2010 (<http://www.bls.gov/news.release/pdf/ecec.pdf>), the hourly wage cost to the Federal Government is \$64.70 per hour. Therefore, the Federal cost for oversight is \$8,282.

Federal Programs. Where OSM is the regulatory authority, we estimate receiving 60 applications for revisions, 33 applications for renewals, and 20 applications for transfer, assignment or sale of permits rights. The total burden for Federal program states will be 1,178 hours, and \$76,217 in wage costs.

The total hourly burden and wage costs to the Federal government are as follows:

						TOTAL
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SECTION	OVERSIGHT BURDEN HOURS	FEDERAL PROGRAM			TOTAL HOURS	HOURLY COST \$ (W/ BENEFITS)	FEDERAL COST \$
		Responses	Hour Burden	Total Burden Hours			
774.12	8	0	0	0	8	64.70	518
774.13-revisions	40	60	8	480	520	64.70	33,644
774.15-renewals	40	33	16	528	568	64.70	36,750
774.17-TAS	40	20	8.5	170	210	64.70	13,587
TOTALS	128	113		1,178	1,306	64.70	84,499

15. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*

This information collection request will increase the burden estimate for part 774 due to an increase in respondents as shown below.

62,067 hours currently approved
+ 19,951 hours due to adjustments

82,018 hours requested

This collection also includes a non-cost burden for newspaper advertisements of \$473,800 inadvertently omitted from previous submissions.

16. *For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

Not applicable. OSM has no plans to publish the information collected under 30 CFR part 774.

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

Not applicable. OSM does not seek a waiver from the requirement to display the expiration date of the OMB approval of the information collection for 30 CFR part 774. The OMB control number is 1029-0116 for 30 CFR part 774 and is found in section 774.9.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.*

Not applicable. There are no exceptions to OMB's *Certification for Paperwork Reduction Act Submissions*.